

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEREMIAH E. GOLSTON

Appeal No. 97-1303
Application 08/160,300¹

ON BRIEF

Before THOMAS, HAIRSTON, and KRASS, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the examiner's
final rejection of claims 1 through 96, which constitute all
the claims in the application.

¹ Application for patent filed November 30, 1993.

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Representative claim 1 is reproduced below:

1. A method of conditional data processing operation comprising the steps of:

setting a condition to either a first state or a second state;

performing a first arithmetic/logical operation and storing a first result in a first data register with a first write priority; and

conditionally moving predetermined data into said first data register if said condition has said first state with a second write priority, said second write priority of said conditional move being higher than said first write priority of said first arithmetic/logical operation whereby said first data register stores said predetermined data if said condition has said first state or said first result of said first arithmetic/logical operation if said condition does not have said first state.

The following references are relied on by the examiner:

Pfeiffer et al. (Pfeiffer)	5,146,592	Sept. 8,
1992		
Murakami et al. (Murakami)	5,247,627	Sept. 21,
1993		
Kawata	5,274,777	Dec. 28,
1993		
	(filed Mar. 29,	
1991)		

Claims 1 through 96 stand rejected under 35 U.S.C. § 103.

As evidence of obviousness, the examiner relies upon Kawata as

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to claims 1 through 30, with the addition of Pfeiffer as to claims 31 through 45. In a separate rejection, the examiner rejects claims 1 through 96 in light of Murakami alone.²

Rather than repeat the positions of the appellant and the examiner, reference is made to the brief and the answer for the respective details thereof.³

OPINION

Turning first to the rejection of claims 1 through 30 under 35 U.S.C. § 103 in light of the teachings and showings in Kawata alone, we reverse this rejection generally for the reasons set forth by appellant at pages 8 and 9 of the brief. Like appellant, we find no mention of write priorities in storing results of an arithmetic/logic unit or the operation of data selected by another circuit during Kawata's instruction sequencing operations. The paragraph bridging

² At page 2 of the answer the examiner has withdrawn a rejection of certain claims under the second paragraph of 35 U.S.C. § 112 as set forth in the final rejection.

³ A reply brief filed on July 1, 1996 was indicated by the examiner in a communication on September 17, 1996 that it had not been entered. Therefore, we have not considered it in our deliberations.

pages 3 and 4 of the answer indicates the examiner admits that Kawata does not specifically disclose the conditional move operation between predetermined data and the result of an ALU operation. As briefly stated at page 4, the examiner is of the belief that the artisan would have found it obvious to have modified Kawata's teachings as "suggested by Kawata in Figure 1." We find no teaching or suggestion in the mere showing of Kawata's Figure 1 to justify from an artisan's perspective the alleged obvious modification.

As noted by appellant in the brief, we note that the limited focus of Kawata is upon sorting operations. The data structure presented in portions of Figure 2 in Kawata is directed to sorting operations as a type of instruction with subinstruction fields for data comparison operations. There is no other discussion of anything comparable to the type of operations set forth in representative independent claim 1 on appeal and in each succeeding independent claims 11 and 21 as to this rejection.

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We are unpersuaded by the examiner's reasoning to modify the sorting operations in Kawata to encompass other types of data processing operations, such as that recited in the claims on appeal, on the basis of the examiner's reasoning alone without additional evidence in the form of other prior art to suggest otherwise.

As to the examiner's observation at page 9 of the answer, even though there appears to be no positive statement of a structural component to perform the priority operation in representative independent claim 1 on appeal, this is a method claim and the priority operations recited are crucial to the operation of the overall functionality of the subject matter in the claim as best expressed in the whereby clause at the end of claim 1. That the architecture of Kawata's Figure 1 may be amenable to support modification as urged by the examiner, absent the earlier noted additional evidence necessary to persuade us of the desirability or need of the modification, clearly, the modification would not have been obvious to the artisan within
35 U.S.C. § 103 as proposed by the examiner.

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Inasmuch as the basic subject matter set forth in independent claim 1 on appeal is present in each of the succeeding independent claims 11 and 21 in this rejection, the rejection of them and all respective dependent claims must be reversed.

Turning next to the rejection of claims 31 through 45 in light of the collective teachings of Kawata in view of Pfeiffer, this rejection also must be reversed for the same reasons set forth earlier. Pfeiffer is not urged by the examiner to cure any noted deficiencies of Kawata as to the basic issue reflected in independent claim 21 just discussed but for other structural features set forth only in dependent claims 31 through 45. We are also not aware of any additional teachings in Pfeiffer that would have done so as well. Thus, we must also reverse the rejection of these claims under 35 U.S.C. § 103 in light of the collective teachings of Kawata and Pfeiffer.

Turning lastly to the rejection of claims 1 through 96 under 35 U.S.C. § 103 in view of Murakami alone, we also reverse this rejection.

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Essentially, we agree with the positions advocated by appellant in the brief beginning at page 17. Murakami appears to us as well not to make any mention of write priorities in storing the results of arithmetic operations nor of any write priorities associated with storing any data move or data transfer operations therewith. The final rejection as well as the answer do not mention write priority as recited in each claim on appeal, and we observe as did the appellant at page 17 of the brief that the final rejection admits that Murakami does not disclose this subject matter.

Appellant quotes column 23, lines 35-48 of Murakami, which appears to be the major or only basis the examiner relies upon to urge the analogousness of additional branch decision unit operations to conditional storage operations. The examiner admits at page 6 of the answer that Murakami does not explicitly teach executing a conditional store operation for selectively storing either the result of an operation or a value of a predetermined memory into a designated memory location depending upon the condition value.

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Essentially, we agree with the appellant's most succinctly stated argument in the paragraph bridging pages 18 and 19 of the brief. There, appellant indicates that Murakami is directed to conditional branching, whereas the subject matter of each claim on appeal is directed to conditional storage. As noted by appellant, conditional branching is concerned with control of the program sequencing, whereas conditional storage deals with that of the data stored.

The examiner's attempt to analogize conditional branching operations to conditional storage operations is not well taken. The urging at the bottom of page 6 of the answer that it would have been obvious to have allowed a particularly detailed if-then-else conditional storage operation (claims 46-96) fails because the examiner has already admitted that a generic conditional store operation is not explicitly taught in the reference, and yet, there is no additional evidence provided by the examiner to persuade us that it would have been obvious to

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the artisan to have extended the teachings of conditional branching to any type of conditional storage. The examiner's position at the top of page 14 of the answer that a conventional conditional write or move operation is implemented by a branch instruction is misplaced since the examiner has already admitted in the statement of the rejection at page 6 of the answer that such conventionally is not taught in Murakami.

Therefore, since the examiner's evidence of obviousness in Murakami, as well as the examiner's reasoning within 35 U.S.C.

§ 103 are insufficient and unpersuasive to us, we must reverse the rejection of each independent claim 1, 11, 21, 46, 58 and 70 as well as each of their respective dependent claims.

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In summary, we have reversed each of various rejections under 35 U.S.C. § 103 of claims 1 to 96 on appeal. Therefore, the decision of the examiner is reversed.

REVERSED

	JAMES D. THOMAS)	
	Administrative Patent Judge)	
)	
)	
	KENNETH W. HAIRSTON)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
	ERROL A. KRASS)	
	Administrative Patent Judge)	

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